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April 11, 2016

Board of Supervisors
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First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

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Fourth District

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Fifth District

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

MOTION TO SEND A FIVE-SIGNATURE LETTER TO THE STATE LEGISLATURE EXPRESSING THE NEED FOR REFORM OF THE GOVERNANCE OF THE CENTRAL BASIN MUNICIPAL WATER DISTRICT, AND REQUEST THAT THEY TAKE ACTION TO ENSURE THE STATE AUDITOR'S RECOMMENDATIONS ARE FULLY IMPLEMENTED (ITEM NO. 51-C, SUPPLEMENTAL AGENDA OF APRIL 12, 2016)

Item No. 51-C on the April 12, 2016 Supplemental Agenda is a motion by Supervisor Solis and Supervisor Knabe instructing the Chief Executive Officer, in coordination with the Director of Public Works, to prepare a five-signature letter to the State Legislature expressing the need for reform of the governance of the Central Basin Municipal Water District, and requesting that they take action to ensure the State Auditor's recommendations are fully implemented.

Background

On June 4, 2014, the Board directed the Chief Executive Officer and the Director of the Department of Public Works to: 1) consult with the Central Basin Municipal Water District (Central Basin) to ensure all necessary steps are being taken by the Central Basin to immediately address and correct their ongoing problems; 2) in consultation with County Counsel, major water stakeholder agencies within the County and at the regional and State levels, as well as the County's Sacramento Legislative Representative, to discuss the situation affecting the Central Basin, and to investigate

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options to ensure continued water availability and service to the Central Basin's customers, including the option of having another local water management agency undertake the Central Basin's responsibilities; and 3) report back to the Board in 90 days with findings and recommendations.

On October 2, 2014, the Department of Public Works (DPW) submitted its report to the Board which outlined the issues confronting the Central Basin related to its financing, litigation and legal costs, its loss of insurance, operations and water supply reliability. The report also outlined the process to transfer ownership of the Central Basin to another entity or entities. Based on the information collected, this office and the DPW requested a comprehensive management audit of the Central Basin by the State Auditor.

The State Auditor conducted an audit on the Central Basin's operations from July 2010 through June 2015. In December 2015, the State Auditor issued its findings, which concluded that the Central Basin's Board of Directors' poor leadership impeded the District's ability to effectively meet its responsibilities. The State Auditor also found that the Central Basin violated State law when it improperly approved the establishment of a legal trust fund without adequate public disclosure. In addition, the State Auditor noted that the Central Basin engaged in questionable contracting practices by avoiding competitive bidding and inappropriately using amendments to extend and expand contracts. The audit included 32 recommendations to the Central Basin's board aimed at improving its operations, financial condition, contracting practices, hiring and compensation practices, and water-rate setting. The State Auditor also recommended that the Legislature pass legislation to preserve the Central Basin as an independent entity but modify the district's governance structure to ensure the district remains accountable to those it serves.

According to the State Auditor's website, 9 of the 32 recommendations have been fully implemented, two have been partially implemented, and 21 are pending. The website also notes that SB 1452 (Chapter 452, Statutes of 2006), requires auditees who have not implemented recommendations after one year, to report to the State Auditor and to the Legislature why the recommendations have not been implemented or to state when they will be implemented.

Legislation Related to Central Basin Municipal Water District

AB 1794 (Garcia), which as amended on March 17, 2016, would require the Board of Directors of the Central Municipal Water District to be comprised of eight directors, until the directors elected on November 6, 2018 take office. At that time, the board would be comprised of seven directors. This bill also would require the Central Basin Municipal

Water District to establish a technical advisory committee comprised of five water purveyors selected every two years, as specified, to meet on a quarterly basis for certain purposes.

Existing law provides for the formation of municipal water districts and grants to those districts' specified powers. A water district is permitted to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Under current law, the board of directors of a district should consist of five members, and each director should be a resident of the division from which the director is elected.

AB 1794 would increase the number of directors on the Central Basin board by requiring that until the directors elected at the November 6, 2018 election take office, the board shall be comprised as follows:

- Five elected directors, who must be residents of the divisions from which they are elected;
- One director appointed by the large water purveyors of the district;
- One director appointed by the cities in the district that are water purveyors of the district; and
- One director appointed by all the water purveyors of the district.

Each appointed director must either live or work within the district.

For the board of directors elected in the November 6, 2018 election, the number of elected directors will be reduced from five to four. The requirement that the elected directors live within the district from which they are elected would remain in place.

This measure would also require the Central Basin to establish a technical advisory committee comprised of five water purveyors selected every two years to meet on a quarterly basis to: 1) review the district's budget and projects for the purpose of providing nonbinding advice to the district's general manager; 2) review and approve proposed changes to the administrative code relating to ethics, director compensation, and benefits; and 3) review and approve proposed changes relating to procurement.

AB 1794 is supported by: the California Water Association (if amended); Central Basin Water Association; the cities of Bellflower, Lakewood, Norwalk, and Paramount; Maywood Mutual Water Company #1; Midland Park Water Trust; and Montebello Land and Water Company. There is no opposition on file.

AB 1794 passed the Assembly Local Government Committee by a vote of 8 to 0 on April 6, 2016. This measure has been referred to the Assembly Appropriations Committee. A hearing date has not been set.

SB 953 (Lara), which as introduced on February 4, 2016, would: 1) prohibit the Central Basin from using sole source contracts, except in emergency circumstances or when only one vendor can meet the district's needs; 2) require the Central Basin to rebid a contract if the district significantly changes the scope of work of the contract; 3) require the general manager of the Central Basin to submit a quarterly report to the district's board detailing all of the district's contracts, contract amendments, and contract and amendment dollar amounts; and 4) prohibit the Central Basin from providing any member of its board of directors with district funds to conduct community outreach activities. The bill also would require the Central Basin Board of Directors to consist of seven members: five members elected and two members appointed by the Los Angeles County Board of Supervisors.

Similar to AB 1794, SB 953 would increase the total number of the Central Basin's board members from its current membership of five elected directors to seven directors and require that elected board members be residents of the divisions from which they are elected. The proposed restructuring of Central Basin's board contained in SB 953 differs from AB 1794 as follows:

- It maintains five elected board members, whereas AB 1794 would (beginning with the November 6, 2018 election) decrease that number to four; and
- There only would be two appointed members (rather than three) and the Board of Supervisors would select the appointed members (rather than the water purveyors).

The Board of Supervisors would select their appointments from candidates nominated by water retailers that purchase water from the Central Basin or consider other qualified candidates (such as residents from the district or someone with knowledge of the water industry or municipal water districts).

SB 953 is supported by: the Central Basin Water Association; and the cities of Maywood, Lynwood, Montebello, Signal Hill, South Gate, and Vernon. There is no opposition on file.

SB 953 passed the Senate Governance and Finance Committee by a vote of 5 to 1 on April 6, 2016. This measure is scheduled for a hearing in the Senate Appropriations Committee on April 18, 2016.

Analysis

The Department of Public Works reports that the Central Basin Municipal Water District functions as the wholesale water provider to over 1.7 million residents living in the southeastern area of the County. DPW also notes that the Central Basin is the lead agency for this area for the development of key conjunctive use projects and programs such as recycled water, emergency interconnections, groundwater replenishment, and wellhead treatment.

The Department of Public Works indicates that the changes proposed by both AB 1794 and SB 953 are intended to increase the Central Basin's accountability to its 48 water retailers and their customers. Though DPW may partner with the Central Basin on water supply projects and efforts, these measures would not directly impact the Department or the County. However, DPW indicates that provisions of the bills provide reform and governance structure modifications that could benefit the Central Basin's customers within Los Angeles County, and thus may be an important issue to the County as a whole.

The Department of Public Works recommends that, in light of the State Auditor's findings of mismanagement by the Central Basin and its ongoing efforts to implement the 32 recommended actions, the County should further evaluate how these bills may protect the customers and improve transparency and accountability of the Central Basin Municipal Water District.

While the legislative committee analyses note there is no opposition on file to AB 1794 or SB 953, at the April 6, 2016 committee hearings, several members of the community testified in opposition to or with strong concerns about increasing the size of the Central Basin governing board and about the need to address the other management issues raised in the State audit beyond the sole source contract issues. During the Assembly Local Government Committee hearing, when asked about the competing legislative proposals, Assemblymember Garcia stated that her intent was to continue discussions

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with the community and with Senator Lara so that ultimately the best possible proposal for a new governance structure would move forward to ensure that the Central Basin Municipal Water District remains accountable and properly serves its consumers.

Conclusion

There is no Board-approved policy specific to modifying the governance structure of the Central Basin Municipal Water District. **Therefore, support of this motion is a matter of Board policy determination.**

SAH:JJ:MR
VE:AO:lm

c: Executive Office, Board of Supervisors
County Counsel
Department of Public Works